

NEW YORK SHIPBUILDING CORPORATION

JANUARY 6, 1925.—Committed to the Committee of the Whole House and ordered to be printed

Mr. PATTERSON, from the Committee on Naval Affairs, submitted the following

REPORT

[To accompany H. R. 9969]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 9969) for the relief of the New York Shipbuilding Corporation for losses incurred by reason of Government orders in the construction of battleship No. 42, having had the same under consideration, report the same back to the House unanimously without amendment and recommend that the bill do pass.

This bill does not provide any appropriation for this claim, but provides only that the Secretary of the Navy be authorized and directed to determine the amount of loss caused the New York Shipbuilding Corporation under this fixed-price contract (executed in November, 1914) because of wage increases paid by the New York Shipbuilding Corporation at Government direction, due to Macy Board awards, and because of overtime wage payments, at Government direction, in excess of regular time rates to expedite completion of this ship.

The bill then increases the construction cost, but only in so far as increased costs involving a loss under this fixed-price contract were caused by Government direction.

This contract was made November 9, 1914, for \$7,250,000 flat, based on estimates made in accordance with labor and material conditions then prevailing. Delivery of the ship was made on time, on March 24, 1919. Between the contract and delivery dates the estimates under which the contractor's \$7,250,000 bid was made were disarranged by unforeseen contingencies, with resulting increased costs.

This bill, however, does not give the New York Shipbuilding Corporation relief for losses due to increased costs arising outside of Government interference. Losses under this contract for such outside increased costs of themselves amounted to about \$700,000. This bill gives the New York Shipbuilding Corporation relief only

for such losses as it suffered, and as may be so ascertained and determined by the Secretary of the Navy, due to increased costs from the two cost factors which the Government itself set in operation and over which the New York Shipbuilding Corporation had no control and to which it had no choice except to submit, namely:

(1) Increased wages (including retroactive amounts) paid at the higher rates fixed in February and November, 1918, for shipyard Government work by the Shipbuilding Labor Adjustment Board ("Macy Board"). These rates this contractor was directed, March, 1918, by the Navy Department to adopt on this contract. These increases do not grow out of any contract or settlement between the men and the New York Shipbuilding Corporation, but were imposed upon the New York Shipbuilding Corporation by the Government, which had agreed, August, 1917, with the unions to be bound by the so-called "Macy Board" awards. The New York Shipbuilding Corporation had no disputes with its labor. The Macy Board twice not only so increased private shipyard wages (February and November, 1918) but also directed that such increases be retroactive to November, 1917, and October, 1918, respectively. In this fixed-price contract, made nearly three years before the creation of the Macy Board, these increases caused subsequent to November 1, 1917, a total increased labor cost of \$992,322.50, all under a schedule of wages to which the New York Shipbuilding Corporation was in nowise a party, but which schedule the New York Shipbuilding Corporation was directed by the department to adopt, with the explicit statement of later adjustment. The department has audited this total amount at \$992,322.50, but has found itself able to reimburse the contractor only for \$120,513.55; i. e., as to labor on parts of the vessel which were "changes," authorized by the contract ab initio. The balance, \$871,808.95, is still unreimbursed by reason of a ruling of lack of statutory warrant to pay it, on the ground that such balance related to work on the vessel within the original contract and specifications and not within "changes" authorized by the contract.

(2) Overtime (in excess of regular time) wages in a claimed amount of \$315,000, paid by the New York Shipbuilding Corporation at the direction of the department to expedite the completion of this ship. The Government adopted in 1917, at the outset of the war, a policy of expediting the construction of destroyers and merchandise vessels, leaving battleships, cruisers, scout ships, etc., for later deliveries, except that because of the *Idaho's* advanced stage of construction work was expedited on this battleship. Under the *Idaho* contract overtime was expressly prohibited, in line with current peace-time contracts and conditions, and as required by the statute fixing an 8-hour day on Government work. In March, 1917, emergency conditions led to the removal of the 8-hour day prohibition as to Navy work, by proclamation of the President, March 22, 1917, and fixing "time-and-a-half" rates for overtime. The Government thereupon directed the New York Shipbuilding Corporation to use overtime work to expedite delivery, with the expressed expectation by the Government of later adjustment. While there appears to be an implied contract to reimburse the New York Shipbuilding Corporation the amount of any such increased cost—i. e., the difference between "time-and-a-half" and "regular time"—the difficulty now

is that such directions for "overtime" given in the pressure of war, while in no way indefinite, have been ruled not to have had the formality or the basis required by statute to authorize payment.

So after the contract had been so expedited and completed at Government request, but at an increased cost to the New York Shipbuilding Corporation, and the Government had received the benefit, the New York Shipbuilding Corporation still suffers a loss because of such increased cost (which is only a part of the total loss the New York Shipbuilding Corporation sustained on the *Idaho*).

This bill is a first step to correct the complications compelled by the deficiencies of present statutes, first, by directing the Secretary of the Navy to ascertain and determine the loss sustained by the New York Shipbuilding Corporation for such increases and such excess of cost due to overtime, and then to increase accordingly the authorized cost of this vessel as hitherto fixed by statute. The bill carries no appropriation.

Secretary Daniels wrote this committee on November 6, 1919, saying in part:

In the case of the Macy board the department did direct that its decisions should be binding upon shipbuilders under cost-plus contracts. This fixed the standard of wages on all shipbuilding work and through labor competition it affected fixed-price contracts as well. But the comptroller has held that this department has no authority to adjust such fixed-price contracts.

Secretary Daniels then goes on to speak adversely of claims under contracts executed after the Macy Board came into existence and such board had served notice of its activities.

But this contract was made November, 1914, nearly three years prior to the creation (August, 1917) of the Macy Board; and the relief afforded by the bill is limited to loss sustained by the New York Shipbuilding Corporation.

In this connection Secretary Denby addressed this committee, on April 21, 1921, in part:

The contractor with a fixed-price contract found himself in a difficult situation. He was forced by orders of a shipbuilder to pay the established rate on cost-plus work, and as a resultant was compelled to pay the same rate on his fixed-price work, while on the latter no allowance could lawfully be made to him. He was hamstrung from the beginning. There are instances of contractors in perfect harmony with their men who were forced to raise wages.

In this contract the New York Shipbuilding Corporation was having no disputes with its labor, yet was directed by the department to adopt these Macy Board increases (including retroactive amounts) for both its cost-plus and fixed-price contracts.

The bill meets with the approval of the Navy Department as shown by the following letter from the Secretary of the Navy to the chairman of the Committee on Naval Affairs of the House of Representatives:

NAVY DEPARTMENT,
Washington, December 20, 1924.

THOMAS S. BUTLER,
Chairman Committee on Naval Affairs,
House of Representatives.

MY DEAR CONGRESSMAN BUTLER: Acknowledgment is made of your reference, under date of December 3, 1924, of H. R. 9969, a bill for the relief of the New York Shipbuilding Corporation for losses incurred by reason of certain Government orders in the construction of battleship No. 42 (*Idaho*).

In the summer of 1917 it was found that war work was being seriously delayed by the drifting of labor in an effort to obtain higher wages. As a means

of correcting this evil so far as possible the Shipbuilding Labor Adjustment Board was organized in August, 1917, by an agreement between the Navy and the Emergency Fleet Corporation on the one hand and the labor internationals and the American Federation of Labor on the other.

In October of 1917 a strike occurred in the Delaware River shipyards at a time when the members of the Shipbuilding Labor Adjustment Board were on the Pacific coast. A conciliator of the Department of Labor visited the scene and reached an agreement with the men that if they would return to work on November 2, 1917, their wages would be later adjusted and made retroactive to that date. This was later done and on April 18, 1918, the Acting Secretary of the Navy directed that the scale adopted by the board should be paid on all cost-plus shipbuilding contracts being performed for the Navy.

The main difficulty in the yard of the New York Shipbuilding Corporation, as in others, was that they had a number of cost-plus contracts upon which current wage rates must be paid and it would have been necessary either to temporarily abandon the work on the *Idaho* (a fixed-price contract) or pay the same rate of wages as was paid on the other work in the yard.

In the meantime shipbuilders had become concerned about the rising cost of labor as it affected their fixed-price contracts, and about the 1st of March, 1918, they had a conference with the Secretary of the Navy which resulted in promises being made to the shipbuilders, among them the New York Shipbuilding Corporation, that their wage increases would be taken care of.

While the battleship program was generally temporarily abandoned in favor of the construction of destroyers, the *Idaho* was so nearly finished that the Secretary of the Navy considered it advisable not to suspend the work on this vessel, and it was completed.

It will be noted that this bill does not make any appropriation or authorize any payment but simply directs the Secretary of the Navy to ascertain the loss to the company from certain causes for the purpose of determining how much, if any, increase should be made in the limit of cost fixed by law for battleship No. 42 and authorizing the increase so found. "Loss to the company" is understood to mean the excess of cost due to higher wages caused by the awards of the Shipbuilding Labor Adjustment Board and to overtime. Attention is invited to the provision in the naval act of March 4, 1917, authorizing the President to suspend the 8-hour law and further requiring that overtime worked in excess of eight hours per day should be for at least at time and half time.

This department believes that this corporation has a meritorious claim in an amount to be determined.

Sincerely yours,

CURTIS D. WILBUR,
Secretary of the Navy.